

Applicants specifically traverse the Examiner's restriction into Inventions I through V. For example, the polynucleotides of Group I are inextricably intertwined with the polynucleotides of Group II; indeed, each is the complement of the other. Further, once one has obtained a DNA encoding the polynucleotides of Group I, one would also possess the antisense polynucleotides of Group II. Moreover, to search the polynucleotides of Group I, one would necessarily search for the polynucleotides of Group II as one would search not only for a sequence but also for its complement. The nucleotides of Group I are used, as exemplified in the instant application, to produce the polypeptides of Group III. The Examiner states that the proteins of Group III may be used as therapeutic agents or as diagnostic agents; however, to use the proteins of Group III as a diagnostic agent, one would need to visualize the proteins of Group III using, for example, the antibodies of Group IV. Additionally, the antibodies of Group IV specifically recognize the polypeptides of Group III. Thus, Applicants submit that, contrary to the Examiner's assertion, restriction is improper as the inventions of Groups I through V are interdependent.

Applicants also assert that, pursuant to M.P.E.P. § 803¹, claims of Groups III and IV be examined together in that such

¹ "If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." (M.P.E.P. § 803, Sixth Ed., January 1995; emphasis added).

an examination would not constitute a serious burden on the Examiner. Specifically, the subject matter of Groups III and IV would necessarily be searched and examined during a search of either of the two Groups, thus, not constituting a "serious burden" on the Examiner. For example, a search of Group III for MKK polypeptides would necessarily uncover any references which refer to the antibodies to MKK of Group IV. Similarly, any search of the Claims of Group IV would uncover proteins which would necessarily fall within the Claims of Group III.

- In contrast, separate prosecution of these clearly related inventions would result in undue burden and expense to Applicants.

Applicants hereby provisionally elect to prosecute Group III, Claims 14-22, drawn to MKK polypeptides. Applicants reserve the right to prosecute the subject matter of non-elected claims in subsequent divisional applications.

Applicants respectfully request that this response be made of record in the file history of the instant application.

Respectfully submitted,

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